ALBERTA

LABOUR RELATIONS BOARD

ANNUAL REPORT

APRIL 1, 1995

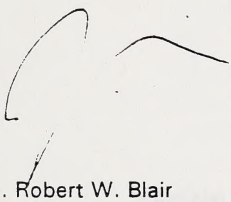
MARCH 31, 1996

June 4, 1997

Honourable Murray Smith
Minister of Labour
324 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Smith:

It is my pleasure to forward the seventh annual report of the Labour Relations Board. This report covers the period from April 1, 1995 to March 31, 1996.



J. Robert W. Blair
Chair

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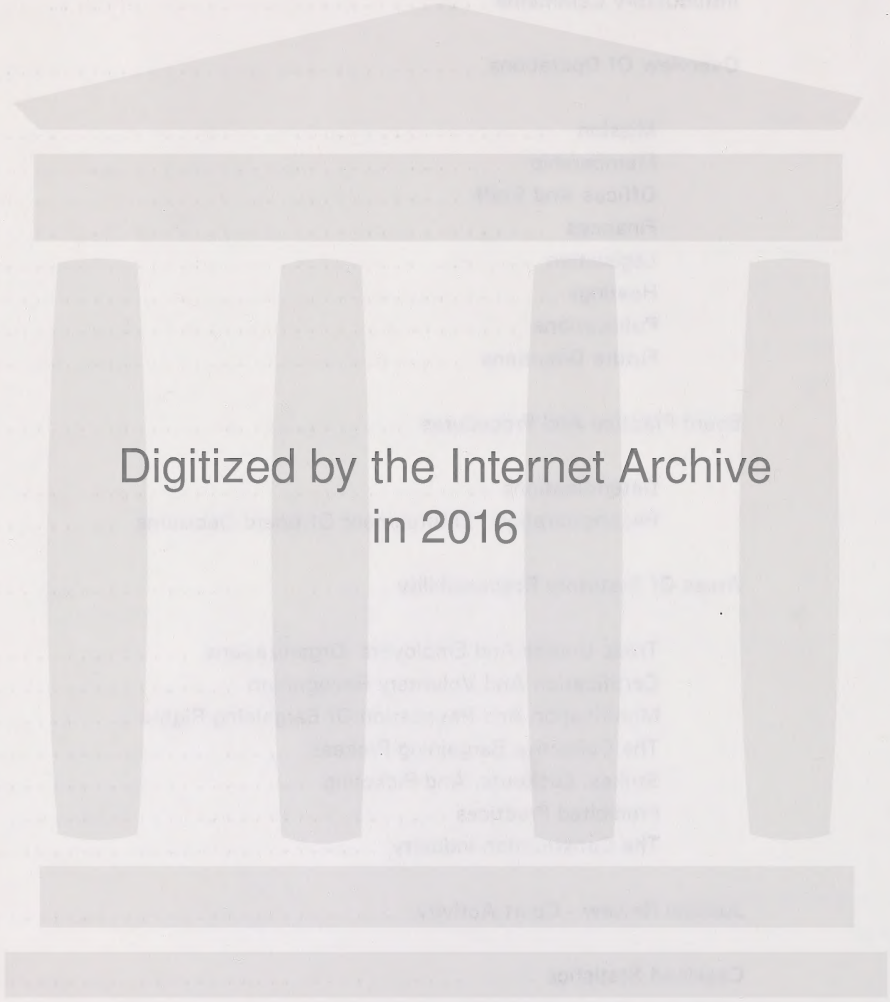


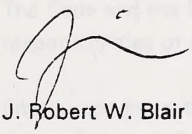
MESSAGE FROM THE CHAIR

One of the most significant events of the reporting year 1995/96 was the devolution of responsibility for health care institutions to the newly-created regional health authorities, effective April 1, 1995. Throughout the reporting period, Board staff were actively involved with the health care labour relations community in dealing with the implications of regionalization. Notwithstanding the fact that there was a great deal of informal Board activity, there is little evidence of that activity when one reviews the formal decisions which the Board rendered over the period. It became evident during the fiscal year, however, that health care regionalization was destined to challenge the Board's resources and those of its clients in the health care industry for some time to come.

A quick review of the reporting period reveals that activity in the construction industry remained relatively low. Disputes involving various aspects of the collective bargaining process continued, as in the previous year, to have an important place in the Board's caseload.

Within both the broader public sector, including health care, and in respect of the pure public sector, the Board was faced with significant issues involving the implications of "privatization" and contracting-out initiatives.

As usual, Board staff have done a good job of compiling a report which contains valuable information and analysis. I commend this report to the attention of all those with an interest in Alberta's labour relations scene.



J. Robert W. Blair
Chair, Alberta Labour Relations Board

INTRODUCTORY COMMENTS

The Labour Relations Board oversees three labour relations statutes:

- The Labour Relations Code;
- The Public Service Employee Relations Act; and
- The Police Officers Collective Bargaining Act.

The Labour Relations Code governs the labour relations of about 200,000 unionized employees representing three-quarters of all unionized employees in the province. It does not apply to employers and employees in the provincial government, farm or ranch labour, or domestic workers. It excludes industries falling under federal jurisdiction. The Code does not cover self-employed workers.

Some other employees in Alberta have their labour relations governed entirely by special legislation, such as the Colleges Act and the Technical Institutes Act, or partially so, as is the case under the Police Officers Collective Bargaining Act and the School Act. Most unionized public sector employees are governed by the Public Service Employee Relations Act.

The Code and the PSERA exclude people who, in the Board's view, exercise managerial functions or who are employed in a confidential capacity in matters related to labour relations. They do not apply to doctors, dentists, architects, engineers, and lawyers while employed in their professional capacities.

The Code and the PSERA contain provisions outlining the labour relations rights and responsibilities of employers, trade unions, and employees.

Employees have the right to seek collective bargaining with their employers. The Labour Relations Code and the Public Service Employee Relations Act guarantee this right and establish a framework for employees to make this choice freely. They describe how a trade union bargains with an employer over terms and conditions of employment to arrive at a collective agreement. Rules of fair play govern trade unions, employers, and employees in their labour relations activities.

The Alberta Labour Relations Board is an independent and impartial tribunal. It is responsible for the day-to-day application and interpretation of these rules and also processes the various applications required by the statutes.

This report begins by describing the Board's mission, its members, staff, finances, publications, and hearings. Then it reviews changes to the Board's practice and procedures and developments in the following areas of statutory responsibility:

Trade Unions and Employers' Organizations
Certification and Voluntary Recognition
Modification and Revocation of Bargaining Rights
The Collective Bargaining Process
Strikes, Lockouts, and Picketing
Prohibited Practices
The Public Service Sector
The Construction Industry

The report then summarizes judicial review activity during the reporting period.

The commentary throughout describes the Board's caseload experience during the year, drawing on the more detailed statistics found in the various tables. The commentary includes leading cases and other important developments.

The report concludes with a series of detailed statistical tables, including combined statistics under both the Labour Relations Code and the Public Service Employee Relations Act. These tables begin with a brief description of the statistical conventions used throughout this report.

This report presumes a basic understanding of the Board's mandate and the provisions of the Alberta Labour Relations Code and the Public Service Employee Relations Act. Those wishing further information on these matters should review the various Board publications described on pages 10 to 12.

OVERVIEW OF OPERATIONS

MISSION

The Board provides fair, impartial, and efficient resolution of applications and disputes that arise under its enabling legislation. The Board encourages settlement of disputes where possible while providing clear, consistent, and timely adjudication when necessary.

MEMBERSHIP

The Board includes the Chair, four vice-chairs, and 25 part-time members. The Lieutenant-Governor in Council appoints members for their experience and knowledge of labour relations, giving equal representation to labour and management.

The Board comprises the following members:

CHAIR: J. Robert W. Blair

VICE-CHAIRS: Mark L. Asbell, Deborah M. Howes,
Gerald A. Lucas, Q.C., Andrew C.L. Sims, Q.C.

MEMBERS:

Thomas Biggs
Scott Boyd
Robin Campbell
Susan Cassidy
Raymond Drisdelle
Eslin Eling
Lynn Ervin
Lynda Flannery
Judy Gulayets
Lesley-Anne Haag
Mike Halpen
Dolores Herman
Kenneth Jones
William Kondro
Normand Leclaire
Angus MacDonald
Rolf Neilsen
Donna Neumann
Paul Petry
Susan Ruffo
Larry Schell
Bruce Tyson
Clifford Williams
Kay Willekes
Roy Wotherspoon

During the reporting year, Board member Zale Asbell left the Board to accept a promotion and posting to the United States. The Board thanks him for his seven years of dedicated service and wishes him continued success in his new role.

The Lieutenant-Governor in Council appointed Susan J. Cassidy, Roy Wotherspoon, Dolores Herman, Eslin G. Eling and Paul G. Petry as new members to the Board on September 27, 1995. Ms. Cassidy is the director of human resources for Calgary Lab Services. Mr. Wotherspoon is the senior human resources officer for the Capital Health Authority. Ms. Herman is a business representative for the Alberta Union of Provincial Employees. Mr. Eling serves as the manager of personnel services for PCL Constructors Inc. Mr. Petry is the manager of human resources for the City of Lethbridge.

On March 20, 1996 the Lieutenant-Governor in Council appointed Lynn Ervin and Rolf Neilsen as Board members. Ms. Ervin is the western Canadian manager for human resources of Versa Foods Ltd. Mr. Neilsen serves as western administrative vice-president for the Communications, Energy and Paperworkers Union.

These appointments bring the Board to its highest level of membership since the passage of the Labour Relations Code in 1988. The Board is pleased to be joined by such a group of experienced labour practitioners and welcomes them to its ranks.

OFFICES AND STAFF

The Board has 24 permanent staff occupying 23.5 positions divided between its Edmonton and Calgary offices. This includes the Chair, Robert Blair, and vice-chairs, Mark Asbell and Deborah Howes.

The Board's administrative and case settlement operations are supervised by Dennis Bykowski, director of settlement, Senior labour relations officer Nancy McDermid oversees the operations of the Board's Calgary office.

At the end of the reporting period the Board's director of administration, John Elsinga, announced his retirement from the public service after more than 20 years with the Labour Relations Board and the Public Service Employee Relations Board. The Board wants to take this opportunity to thank him publicly for his many years of exemplary service to the province's labour relations community. We wish him well in his new endeavours. At the close of the reporting period the Board was recruiting a new manager for its administrative functions.

Also during the reporting period the Board lost the services of Calgary officer Lorna Kaufman, who returned to graduate studies at the University of Calgary, and Calgary hearing clerk Sherry Keister, who resigned to become a full-time parent. The Board thanks them for their service and wishes them the best in their new directions. Joining the Board's Calgary office were labour relations officer Betty-Lou Stelling,

formerly of the Employment Standards Branch of the Department of Labour, and hearing clerk Marlene Leslie.

This year the Board initiated what it hopes to become an ongoing program of offering secondment positions to articling students and junior lawyers. In January 1996 the Board welcomed Nancy Schlesinger, an associate with the Witten Binder law firm, for a six-month term with it.

The Board uses the services of 28 deputy returning officers situated throughout the province, each assisted by several polling clerks. They give the Board the ability to respond quickly to applications and conduct votes anywhere in the province. Each deputy returning officer is authorized to serve documents, post notices, and conduct votes on the Board's behalf.

FINANCES

The Board is funded by separate vote under the budget of the Department of Labour. This year the Board operated with a budget of $ 2,106,000. During the reporting period it spent $1,916,014.23 on its operations, nine per cent below its allotted budget. The Board's expenditures were divided as follows:

Salaries and benefits	$ 1,289,479.32
Supplies and services	$ 621,051.11
Grants	$ 500.00
Other	$ 4,983.80

LEGISLATION

One legislative change affected the Board's operations during the 1995-96 year. Early in the reporting period the Managerial Exclusion Act was passed. It repeals the provision of the Labour Relations Code that excluded only chiefs and deputy chiefs from firefighter bargaining units, and gives the Board authority to exclude other employees that exercise managerial responsibilities.

Also during the year, concern was expressed that regional health authorities might be interpreted to be employers covered by the Public Service Employee Relations Act. This appeared to be contrary to the Legislature's stated purpose in placing all hospitals under Labour Relations Code jurisdiction in the Labour Boards Amalgamation Act of 1994. Legislative clarification was required. At the end of the year the Legislature had before it Bill 30, the Health Statutes Amendment Act. One section

of that Bill states that regional health authorities are not PSERA employers. If passed, the section would be retroactive to the creation of the regional health authorities in June 1994.

HEARINGS

The Board sits in panels of three and sometimes five members, with a Chair or vice-chair in each case. A Chair or vice-chair may now sit alone for more types of applications which allows the Board to provide speedier decisions on certain matters. Most hearings take place in Edmonton or Calgary, but in appropriate cases, the Board holds hearings in the location closest to the workplace. This year, panels sat in Lethbridge, Edson, Athabasca, Grande Prairie and Fort McMurray.

The Board receives applications in both its Edmonton and Calgary offices. In this reporting period, the Board received a total of 1182 new matters (up 34.1% from 1994-95) and concluded 1083 (27.4%). This includes matters under both the Labour Relations Code and the Public Service Employee Relations Act. Of these, the Edmonton office processed 64 per cent and the Calgary office 36 per cent.

The Board conducted 458 hearings over 283 panel days during the reporting period. This compares to 472 hearings over 283 panel days during the previous reporting year. A *panel day* is one panel sitting for a day for one or more cases. Several panels may sit on one day. A panel may hear more than one case per day, and one case may deal with several matters.

The Board's caseload increased in most categories of proceeding it conducts. The largest increase (from 65 to 233) occurred in applications to modify bargaining rights. Most of this increase came from the health care and education sectors. Significant caseload increases also occurred in certifications (up 19%, from 146 to 174), strike and lockout proceedings (up 84%, from 25 to 46) and employer unfair labour practice complaints (up 10%, from 182 to 200). Increases in these areas were only somewhat offset by declines in determination applications (down 11% from 104 to 93); bad faith bargaining complaints (down 34% from 32 to 21); and references of a difference, which declined from 59 to their historical level of 10.

PUBLICATIONS

The Board believes its decisions and policies must be accessible and understandable. It publishes them in the following ways:

Information Bulletins

Twenty-three information bulletins outline the Board's policies and procedures on topics such as filing applications, standard bargaining unit descriptions, and strikes and lockouts. Information bulletins are available to the public free of charge.

Practitioner's Manual

The Labour Relations Code Practitioner's Manual includes an annotated Labour Relations Code, all information bulletins and rules, the Guide to the Labour Relations Code, and other useful information. Subscriptions include regular quarterly updates and are available from the Legal Education Society of Alberta, 2610, 10104 - 103 Avenue, Edmonton, Alberta, T5J 0H2. Telephone (403) 420-1987.

At the end of the reporting period, a revised and expanded annotated Labour Relations Code was in preparation under the supervision of David Corry of Bennett Jones Verchere. The revised annotated Code will incorporate early decisions of the Board as well as leading cases from other Canadian labour boards.

Alberta Labour Relations Board Reports

This is a subscription service published by the Legal Education Society of Alberta. Each year's service includes a case table, and the full text of all Alberta Labour Relations Board and related court decisions. It also includes case headnotes, keyword/subject indexes and updates on court challenges to Board decisions. Subscriptions are available from the Legal Education Society of Alberta, 2610, 10104 - 103 Avenue, Edmonton, Alberta, T5J 0H2. Telephone (403) 420-1987.

Board decisions issued since 1952 are on file at the Labour Information Services Branch, Room 303, 10808 - 99 Avenue, Edmonton, Alberta, T5K 0G5. They are also on file at the law libraries of the Universities of Calgary and Alberta and the courthouse libraries in Calgary and Edmonton.

Planned for release in the 1996-97 year is a companion volume to the ALRB Reports containing headnoted versions of all decisions of the Public Service Employee Relations Board from 1977 to 1994.

Alberta Labour Relations Board Decisions Index

This is a subscription service published by the Legal Education Society of Alberta. Indexes provide access to all Board and related court decisions. They contain four sections: parties, section of the statute, subject, and date. Entries contain the

following information: parties, Board file number, section of statute, subject, appeal status, Chair, summary, and citation.

The three available indexes cover cases under the Alberta Labour Act, the Labour Relations Act, the Public Service Employee Relations Act and the Labour Relations Code. They are available from the Legal Education Society of Alberta, 2610, 10104 - 103 Avenue, Edmonton, Alberta, T5J 0H2. Telephone (403) 420-1987.

QuickLaw On-Line Full-Text Decisions

The QuickLaw on-line database service gives computer access to the full text of all Board decisions issued since 1986. QuickLaw also has on-line access to the full index of Board decisions, including case summaries.

The Alberta Labour Relations Board on the World Wide Web

In February 1996 the Board became the first Canadian labour relations tribunal to post its publications and decisions on the Internet through a World Wide Web home page. The Board's home page contains member and staff profiles, rules, information bulletins, its publication *A Guide to Alberta's Labour Relations Laws*, public announcements and recent decisions. Decisions are posted upon release and removed once they are available on QuickLaw or in the ALRB Reports. All Board material on the Web is freely downloadable. Internet users can connect with the Board's Web site at *http://www.gov.ab.ca/~alrb*. Users may also e-mail the Board through their Web browser, or directly at *paulineb@lab.gov.ab.ca*.

Annual Reports

This is the Board's seventh annual report. Limited copies of this report are available by writing or calling the Board at:

> #503, 10808 - 99 Avenue, Edmonton, Alberta, T5K 0G5
> Phone (403) 427-8547 or toll-free at 1-800-463-ALRB (2572).

Copies of the previous annual reports are available for viewing at the Alberta Labour Library at:

> #302, 10808 - 99 Avenue, Edmonton, Alberta, T5K 0G5

FUTURE DIRECTIONS

Health care and education regionalization has been a recurring theme in this portion of the Annual Report in recent years. As indicated in last year's report, the reorganization of health care labour relations has lagged behind reorganization of health care program delivery. As predicted, the Board did receive its first significant numbers of applications arising out of health care reorganization in the reporting year. It expects to receive many more applications in the 1996-97 year, however, as most of the new regional health authorities implement their new models of program delivery.

In the Board's view, its Transition Bulletin T-2 has continued to be useful in focussing the discussion over what bargaining structures and bargaining units in health care will look like in the wake of regionalization. At the end of the reporting year the Board announced its intention to host a province-wide conference to discuss health care labour relations, to be held in the fall of 1996.

Late in the reporting period there occurred the first of several preliminary announcements of major industrial construction projects for Alberta, all expected to start before the year 2000. The Board considers that this is likely to result in more work for unionized construction contractors and members of the building trades unions, and more organizing activity by the building trades unions as new contractors come into Alberta or existing contractors shift their activities to industrial construction. It expects a corresponding increase in the amount of Board activity in the construction sector, which has been declining since completion of the last major forestry projects in 1993.

BOARD PRACTICE AND PROCEDURES

The Board made no changes to its rules during the reporting period. It did, however, change one practice affecting the Board Officer's report issued in certification and revocation applications. After receiving some concerns from the community and conducting a detailed review, the Board changed its practice of showing, in the officer's report, the actual numbers of employee support for the application. Rather, the officer's report now includes a statement indicating only whether or not the applicant has shown the required 40% support.

Several cases before the Board and the courts dealt with procedural issues, including particulars, amending complaints, non-suits, and delays in filing complaints.

In *Edmonton Fire Fighters Union v. The City of Edmonton* [1995] Alta.L.R.B.R. 212, the Board dealt with the sufficiency of particulars in a case and the amending of complaints. The Employer asked the Board to dismiss the Union's complaints for lack of particulars. It also objected to the expansion of the Union's original complaints through later particulars. The Board reiterated that particulars are allegations of fact necessary to support the complaint, not exhaustive descriptions of intended evidence to which the complainant must then restrict itself. An order for particulars is discretionary in the Board, and a party has no "right" to have a complaint dismissed for want of particulars.

In a second case, *Don MacDonald v. Canadian Union of Public Employees, Locals 709 & 37* [1995] Alta.L.R.B.R. 340 the Board dismissed the complainant's fair representation complaint for delay. The complaint was filed three and one-half years after his dismissal and three years after he learned of his right to fair representation. A key witness had died in the interim. The Board characterized the delay as extreme. The passage of time had seriously prejudiced the respondents' ability to defend the complaint.

Another case dealing with delay was *University of Alberta Non-Academic Staff Association v. Focus Building Services Ltd. et al.* [1995] Alta.L.R.B.R. 396. In this case, the Board said that the Code's rule on timeliness (section 15(1.1)) did not apply

to successorship cases, because the section imposed time limits only upon the filing of "complaints." The Board went on to decline to exercise its general discretion to dismiss the successorship applications as untimely. The doctrine of delay does not apply to successorship applications because the Board's authority is only confirmatory. Existing bargaining rights automatically pass to the successor without a Board declaration. Further, the Board has no discretion to dismiss an otherwise proper s. 44 application. Delay is therefore only relevant in determining the remedial consequences of a successorship declaration.

However, the Board stated that, had it been necessary, it would have dismissed the Union's common employer applications for delay under its broad discretionary powers. The Union knew about the applications well in advance either because work had commenced under the contract or the Union had been party to the process that led to the contracting-in. The delay was unexplained and prejudicial to the respondents' ability to answer the applications.

The fourth case, *International Brotherhood of Electrical Workers, Local Union 424 v. TNL Industrial Contractors Ltd. et al.* [1995] Alta.L.R.B.R. 547, dealt with amendments to complaints and the summary dismissal of complaints for lack of evidence. During the hearing into complaints by the Union and 33 individuals under section 146, the Union applied to amend its complaint by adding as complainants two of its witnesses. One witness had already testified in chief. The Board allowed the amendment. It found that the new complaints involved the same issues and overlapping evidence, and that the employer still had the opportunity to cross examine the two new complainants. The Board would have allowed them to file new complaints, if necessary, because the delay had not been extreme and no prejudice was caused to the Employer. It was preferable, though, to simply add them to the existing complaint.

The Employer also applied for the Board to summarily dismiss the complaints of 27 complainants, who did not testify in support of their complaints. The Board granted the application. It found that hearsay evidence alone, i.e. in the absence of direct oral or documentary evidence, was not sufficiently reliable to establish an essential element of these 27 complaints.

DETERMINATIONS

Section 11(3) of the Code and section 3.2 of the Act allow the Board to decide a wide variety of specific questions. Many applications to the Board ask it to decide whether a person is an employee or whether an employee falls within the bargaining unit. During this reporting year the Board concluded 93 such "determination" applications. This number is down slightly from 104 the year before, reflecting a greater degree of stability in this area. The largest volume of these cases centred around questions of whether persons were employees, in the bargaining unit, or bound by the collective agreement. Of the 93 applications, nine were rejected as incomplete, and the applicant withdrew 23. Board intervention settled 21 cases, less than half the number of cases in the previous period, signalling an increased desire by the parties for a third party decision. The Board made 27 determinations in favour of the applicant's position and 13 in favour of the respondent's position.

A number of determination decisions issued during the year are noteworthy. In *Health Sciences Association of Alberta v. Misericordia Hospital* [1995] Alta.L.R.B.R. 533 the Board reconsidered its previous decision ([1994] Alta.L.R.B.R. 348), in which it had held that the appropriate "evidentiary cut off" date relating to the duties of a newly created position was the hearing date. The reconsideration panel reviewed and adopted the approach of the Manitoba Labour Board to determination applications affecting newly-created positions. Under this approach, the Board will presume that an application is premature if it is filed less than six months after the new position is created. After that, the Board will decline to hear evidence about the position that arises after the application date. This approach best balances the risk that positions will be manipulated after a determination application is made.

International Union of Operating Engineers, Local 955 v. Burnco Employees Association et al. [1995] Alta.L.R.B.R. 151 involved a determination over to which of two bargaining units certain employees belonged. The Union was certified to represent a residual unit of all employees excluding those represented by a voluntarily-recognized employee association. The Board held that the Association and Employer were not free to expand or contract the scope of the Association agreement from time to time as they saw fit. The Union's certificate had been intended by the

Board to cover all employees except those outside the scope clause of the Association agreement as of the time the certificate was issued.

Another case, *National Automobile, Aerospace, Transportation and General Workers Union of Canada, Local 4050 v. Laidlaw Waste Systems Ltd.* [1995] Alta.L.R.B.R. 291 considered whether workers were employees or independent contractors. The Board held that waste removal owner/operators or brokers, under contract to the employer, were independent contractors and not employees, for purposes of the Code. Although on an application of the "control" test these brokers were relatively evenly balanced between employee and contractor status, their ownership of their tools and their ability to make a profit or incur a loss by their own operational decisions persuaded the Board that they were independent contractors.

Another case involved the Crown's application to exclude three pay and benefits administrators in the personnel office of Alberta Labour from the bargaining unit by force of s. 21(1)(b) of the PSERA. In dismissing the application, the Board held the administrators did not have independent decision-making authority that affected the rights of other employees. They did in their duties gain access to confidential information, but this did not by itself raise a conflict of allegiances that would justify exclusion. Any difficulties could be avoided by the employees observing their oath of confidentiality. See: *Crown in right of Alberta v. Alberta Union of Provincial Employees and Donna Hudj et al.* [1996] Alta.L.R.B.R. 125.

Finally, in *United Food and Commercial Workers, Local No. 280 v. Gainers Inc. et al.* [1995] Alta.L.R.B.R. 523, the Board found that a limited partnership was the successor employer to Gainers Inc. in respect of its Edmonton plant employees. The Board noted that although a partnership is not a legal entity distinct from the partners who compose it, the partnership has a legal standing and may be sued in its own name. Accordingly, the Board issued a new certificate naming the employer as the limited partnership and describing it as a partnership of its three named partners.

RECONSIDERATION / ENFORCEMENT OF BOARD DECISIONS

Section 11(4) of the Code allows the Board to reconsider its own decisions. During the year, the Board concluded 22 review-type reconsiderations. This is almost double the number of matters the year before. Of those, four were withdrawn, 14 were declined, one decision was varied, and one decision was affirmed. Two applications were rejected as incomplete. Eight of these matters dealt with decisions on certification or revocation applications, two with determinations, one with a union structural change, three with duty of fair representation decisions, and three with matters of procedure.

In *Alberta Union of Provincial Employees v. The Franciscan Sisters Benevolent Society* [1995] Alta.L.R.B.R. 124, the Board decided to exercise its reconsideration powers despite the matter being academic because the statutory time limits had passed already by the time of the hearing. The Union had applied for certification for an all-employee unit. The application was dismissed for lack of 40% support because the Union had not organized employees in two other programs operated by the Employer. The Union's application under s. 55 for consent to reapply within 90 days was also dismissed. The Board elected to reconsider because of the significant policy issue involved and the lack of written decisions on s. 55. On the merits of the case, the Board noted that section 55 is aimed at preventing the disruption and uncertainty in the workplace caused by repeated applications. Significant factors to the Board on a s. 55 consent application include whether a representation vote was held on the first application, and whether organizing in support of the second application will affect a different group of employees.

Board orders can be filed in the Court of Queen's Bench. This makes them enforceable in the same way as court orders. The Board received two such applications this year, both of which were settled.

AREAS OF STATUTORY RESPONSIBILITY

TRADE UNIONS AND EMPLOYERS' ORGANIZATIONS

A cornerstone of the Code is the right of employees to be members of trade unions and to participate in lawful union activities. However, the Code only partially regulates trade unions themselves. Many aspects of the relationship between a union and the people it represents are internal union matters governed by the union's constitution.

Organizations seeking certification under the Code must meet certain basic conditions and satisfy the Code's filing requirements. The trade union records officer supervises all trade union filings and maintains the Board's trade union registry.

Trade Union Filings

At April 1, 1995	Active	Inactive
Parent Trade Unions	204	295
Local Trade Unions	699	591

During the reporting period, the Board released no written decisions dealing with the status or powers of trade unions or employers' organizations under the Code.

CERTIFICATION AND VOLUNTARY RECOGNITION

The Board processed 184 certification applications during the year, up from 142 in the last reporting year — an increase of 30 per cent. Construction and construction-related applications were up marginally over last year's very low numbers. The largest increase in certification applications came in the hospital and health care

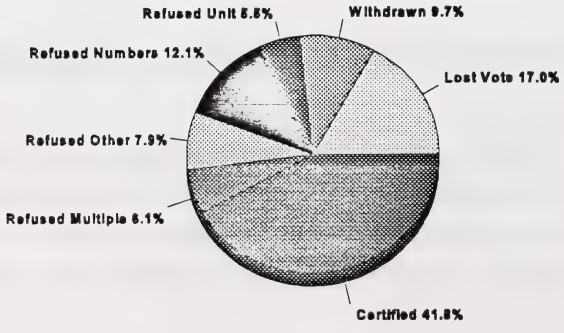
services sector, which saw an increase from 16 applications in the last reporting year to 63 this year.

The *Code* grants applicant trade unions a representation vote where they show 40 per cent employee support within the proposed bargaining unit. Of the 113 applications that went to vote, 82 (73 per cent) achieved certification, an increase in success rates of 12% from the 61 per cent rate (57 granted) recorded in 1994-95. This compares to 74 per cent (86 certificates) in 1993-94 and 70 per cent (97 applications) in 1992-93. It is a return to the relatively static level of success in certification votes since certification votes were introduced in 1988. Coincidentally, this return to higher success levels is also reflected in the construction and construction-related industries where 28 of 43 applications (65 per cent) resulted in certification, compared to 21 of 38 (55 per cent) last year.

Of the 184 certification applications concluded in this period, the Edmonton office processed 71 per cent and the Calgary office 29 per cent, a return to their 1993-94 shares. This compares to 63 per cent and 37 per cent respectively in 1994-95; 78 per cent and 22 per cent respectively in 1993-94; 68 per cent and 32 per cent respectively in 1992-93, and; 65 per cent and 35 per cent in 1991-92.

The next chart shows the ways the Board disposed of certifications this year. The percentages show that from last year more cases were withdrawn before hearing; many more applications in Edmonton were refused for lack of initial support; and the applicants lost fewer votes.

Disposition of Certification Applications

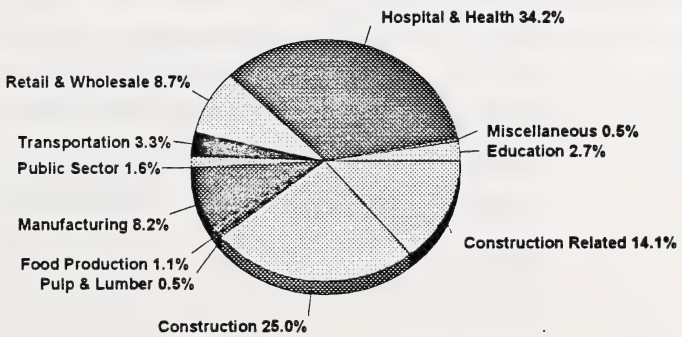


In this chart:

- **Refused Numbers:** means the applicant lacked the initial 40 per cent support.
- **Refused Multiple:** means the applicant lost one of two parallel applications, for example, where the union applied for two different named employers intending only to certify one.
- **Refused Unit:** refers to those for which the bargaining unit proved inappropriate for collective bargaining.
- **Refused Other:** covers all other cases that did not involve a representation vote.

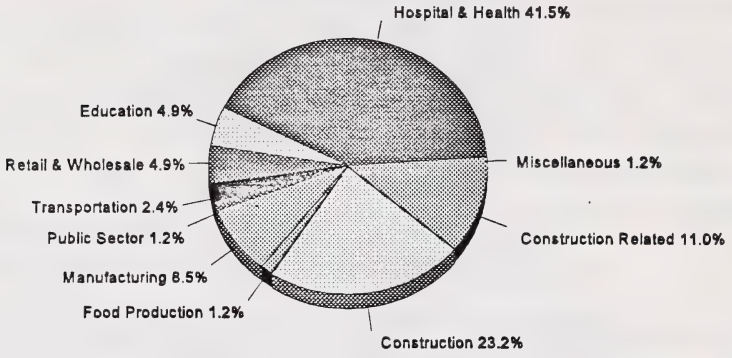
The Board classifies applications into the industry types set out in the Appendix to Table 2 and 3 at the end of this report. Table 2 breaks down the year's certification applications by industry. The following charts give a simplified version of this breakdown. The first chart showing applications concluded by industry discloses that construction applications increased by 9.5 per cent and construction-related applications increased by 30 per cent. Health care applications increased dramatically, by 482%, indicating a much higher level of organizing activity in that sector. The number of applications in the transportation and storage sector increased five fold. There were small increases in both the manufacturing and retail sector and the wholesale trade sector as well. Conversely, applications in the pulp and lumber industry decreased by 90 per cent, to just one application.

Applications Received by Industry



The second chart, covering certificates granted, shows again an increase from the last year in both construction and construction related industries and over double the number of certificates granted in the hospital and health care industry from the previous year. Of the health care applications sent to vote 34 of 40 succeeded.

Certificates Granted



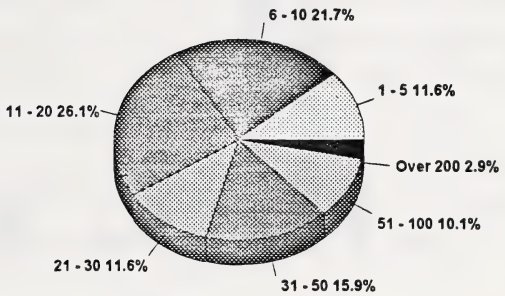
The table below shows the number of certificates granted by the Board during the year, according to parent union.

Certificates Granted, by Parent Trade Union

Trade Union	No. of Certs.
Alberta Union of Provincial Employees	9
Christian Labour Association of Canada	6
Health Sciences Association of Alberta	6
Canadian Union of Public Employees	5
United Mine Workers	5
Canadian Iron, Steel and Industrial Workers'	5
United Food and Commercial Workers	4
Communications, Energy and Paperworkers Union	3
United Nurses of Alberta	3
Plumbers and Pipefitters	3
Canadian Health Care Guild	2
Electrical Workers	2
Painters	2
Operating Engineers	2
Others	12

The bargaining units that trade unions applied for varied in size from 2 employees to 2212 employees. The following table illustrates the size of units involved in representation votes over this period.

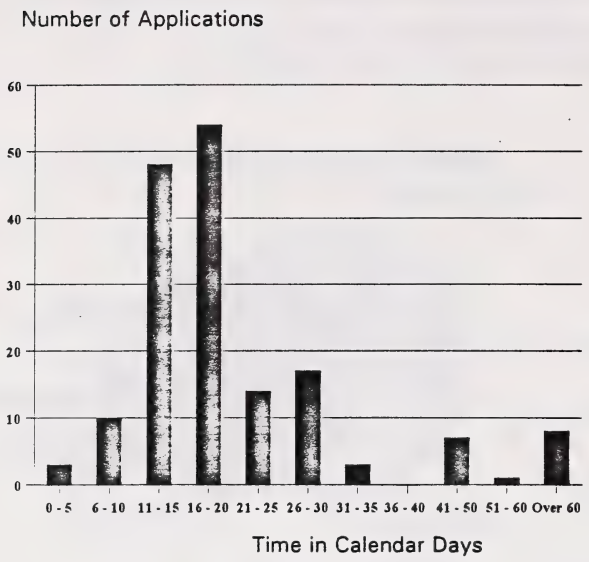
Size Of Bargaining Units Where Votes Conducted



As in the previous period, a high percentage of employees participated in representation votes. In 28 per cent of the representation votes held, the Board experienced 100 per cent employee turnout. Overall, the average turnout was 78 per cent.

It took an average of 32 calendar days to conclude a certification application during this reporting period, up 13 days from last year. These numbers include 42 cases which took an average of 80.5 days each to complete due to complications from such things as unfair labour practice complaints, interrelation with successorship applications in the health care industry, and concurrent applications to the Canada Labour Relations Board. Included in these figures are 16 cases (about twice that of last year) which were eventually withdrawn after an average of 130 days. The average time also includes a number of mail-in representation votes, which require about 14 days longer to complete than in-person votes.

Time Taken To Conclude Certification Applications



The bargaining unit a union seeks to certify must be appropriate for collective bargaining. Bargaining unit appropriateness was a prominent issue before the Board during the reporting year. The case of *Alberta Union of Provincial Employees and The Franciscan Sisters Benevolent Society* [1995] Alta.L.R.B.R. 124 demonstrates the importance of the Union's decision concerning which unit to organize. Initially the union applied for an all employee unit, but did not have the required 40% because it had sought support from employees in only one of the three programs operated by the Employer. An amendment to a single-program unit was denied. The Union then brought a second certification application for the single-program unit, which the Board also dismissed on the basis the unit was inappropriate.

On the other hand, in *United Food and Commercial Workers, Local 401 and Freson Market Ltd.* [1995] Alta.L.R.B.R. 491 the Board found that a single retail store location comprised an appropriate unit. The Union applied for certification for a bargaining unit of all employees at one of the Employer's two retail food stores in the City of Grande Prairie. The Employer objected that the single-store unit was inappropriate. The Board reviewed its policy and that of other Boards on single-store

retail bargaining units. It concluded that the unit was appropriate in the circumstances. The Board noted, however, that second and subsequent single-store units in the same municipality may not be appropriate because they tend to produce a fragmented bargaining structure. In such cases the Board might require the other stores to be added to the existing certificate through a reconsideration application.

In *United Food and Commercial Workers, Local 401 and Canada Safeway Liquor Stores* Ltd. [1996] Alta.L.R.B.R. 99 the Union applied for an all-employee unit but the Board amended the unit to those employees employed at the only existing store. The Board said it would not grant a municipal bargaining unit in the retail trade sector where only a single retail outlet exists within the municipality. A single-site unit best takes account of the representation wishes of future employees at other sites, the Union's interest in future organizing, and the Employer's choices of how to organize its future operations.

Sometimes the Board must consider the quality of the applicant's support or unusual circumstances as to whether they are "other relevant matters" that justify a dismissal of a certification application. The cases of *International Brotherhood of Electrical Workers, Local Union 424 et al v. JNJ Instruments Ltd.* [1995] Alta.L.R.B.R. 452 and *JNJ Instruments v. IBEW Local 424 et al.* [1996] Alta.L.R.B.R. 86 demonstrate this discretionary power that section 37 gives the Board. IBEW applied for certification for a unit of general construction electricians and UA applied for a unit of general construction pipefitters, in respect of the same group of instrument mechanics. The Employer objected that UA was estopped by its prior agreement not to seek certification. The Board dismissed the Employer's objection. The Employer had not performed its own obligations under that agreement, and the agreement was, therefore, not a "relevant matter" to consider under s. 37. The Board ordered a vote on the UA application and dismissed the IBEW application because there was only one employee in the bargaining unit.

Another element of these applications was that several employees held membership in or signed membership cards for both unions. The employer sought reconsideration of the decision. It argued that the dual membership evidence made employees' wishes equivocal and the evidence could not support a representation vote. The Board on reconsideration, [1996] Alta.L.R.B.R. 86, said the membership evidence

submitted clearly complied with s. 31. Where concurrent applications for certification are filed in respect of the same employees, an employee's membership in both unions does not impeach either union's evidence of support. In Alberta, the mandatory representation vote cures any suggestion that the dual membership makes the employee's wishes as to representation equivocal.

It is critical to the success of a certification application that the employer employ persons falling within the bargaining unit on the date of application. The Union, in *Industrial, Wood and Allied Workers of Canada, Local 1-207 v. Alberta Pacific Forest Industries Inc. et al.* [1995] Alta.L.R.B.R. 424, applied for certification to represent log haul truckers supplying timber to the respondent Alberta Pacific's pulp mill. The application was filed during a two-week period when log haul operations were shut down because of poor road conditions. The Board dismissed the application because it lacked the necessary employee support, as there were no employees in the unit on the date the application was filed.

MODIFICATION AND REVOCATION OF BARGAINING RIGHTS

The Board concluded 44 sale, lease, or transfer applications under section 44 of the *Code* and section 90 of the *Public Service Employee Relations Act*. Of these, 19 were withdrawn. Five applications were settled through Board intervention, 13 were granted and seven were dismissed. The changes in the health care industry prompted by the change to seventeen regional health authorities accounted for most of these applications.

The Board received 142 applications to modify bargaining rights under section 46 of the *Code* due to a change in governing bodies. This overwhelming increase (22.6 times last year's total) resulted primarily from changes in the health care industry and the education industry, both of which were affected by changes resulting from government regionalization legislation. Forty-eight applications were granted, one was dismissed and 32 were settled with Board intervention. Another 61 matters were withdrawn.

The *Code* enables the Board to declare two or more related entities to be a "common employer" for labour relations purposes. It distinguishes between construction and non-construction common employer applications. During the reporting period, the Board handled ten non-construction applications. Of these, three applications were withdrawn before hearing, four were dismissed, one was granted and two were settled with Board intervention. Of two construction common employer applications, both were dismissed.

During the reporting period, the Board received three applications to consolidate existing certificates under section 39. The Board granted one application, rejected one as incomplete, and dismissed another.

The Board dismissed the one application made to modify bargaining rights under section 43 claiming there had been a change in bargaining circumstances.

Fourteen applications under section 47 to declare one trade union a successor to another union's bargaining rights were concluded. Thirteen were granted and one dismissed.

The Board saw an increase of 79 per cent in the number of revocation applications, to 136 from 76 in the 1994-95 year. This follows a 77 per cent increase in the 1994-95 reporting period over the previous year. The construction industry again provided the highest number of applications for this reporting period. Of the 110 revocation applications in the construction industry (double that of last year), 83 applications resulted in the revocation of the union's certification. It is worth noting that a large number of these applications were initiated either by employers who had not employed employees for over three years or by the Board upon being advised that the employer was no longer in business.

Table 3 at the end of the report shows the Board's disposition of revocation applications and the industries involved. Of the 33 applications brought by employees, 20 went to a vote. Of these, all favoured revocation of bargaining rights. The Code allows employers to revoke trade union bargaining rights where no employees have been employed in the bargaining unit for an extended period. Forty-nine employer revocation applications were concluded, resulting in a revocation of

bargaining rights in 36 cases. Eleven were withdrawn and two refused. One revocation application was brought by a trade union and granted by the Board. The Board revoked four certificates on its own motion under section 53 of the *Code*.

Issues surrounding employee revocation applications were also dealt with by the Board this reporting period. The first case, *Brown and Root, a Division of Haliburton Canada Inc. v. International Brotherhood of Electrical Workers, Local 424 et al* [1995] Alta.L.R.B.R. 138, comments on the issue of bargaining efforts and employee status. The Board granted the Employer's application to revoke a certificate for general construction electricians on the basis that there had been no bargaining for three years. The Employer, by sitting on a construction trades joint steering committee negotiating common employment terms across several trade jurisdictions, had not "bargained". "Bargaining" does not occur on behalf of an employer unless it is engaged in the trade jurisdiction at the time, which this employer was not. Finally, it rejected the Union's request to refuse the revocation on the discretionary basis that the Employer had adopted the practice of subcontracting its electrical work rather than perform it with its own employees. The *Code* emphasizes direct employment, and intends revocation to be available to the employer in these circumstances.

Another case touching on employee status was *Certain Employees of Orlovsky Painting (1972) Ltd. v. Painters, Wallcoverers, Drywall Finishers, Glaziers, Glass Workers, Architectural Aluminum Installers, Floorcoverers & Allied Workers, Local No. 177* [1995] Alta.L.R.B.R. 251. Several long-serving employees of the Employer brought an application to revoke the Union's bargaining rights. For many years, the Union had failed to enforce its bargaining rights. The employees were, during that time, hired directly, contrary to the hiring hall clause in the collective agreement. The Union objected that these employees were not employees in the bargaining unit, citing the Board's decision in *Ernest Painting & Decorating (1982) Ltd.* [1995] Alta.L.R.B.R. 120. The Board dismissed the objection and ordered a representation vote. Although the Board accepted the principle behind *Ernest Painting*, support among employees hired contrary to the collective agreement was better analysed as a discretionary factor that the Board could consider under its power to take account of any "other relevant matter" in s. 52(1). In this case there was no satisfactory explanation of why the Union had failed to enforce its bargaining relationship. The

interests of employees who had enjoyed lengthy employment relationships with the Employer in the meantime dictated that the Board not exercise its discretion to dismiss the application.

An application for revocation must be timely and the ten month limitation in the *Code* runs from the date of certification, not a subsequent successorship. See*: United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, Local Union No. 488 and Pac Fab Industries Corp. and Certain Employees of Pac Fab Industries Corp.* [1995] Alta. L.R.B.R. 335, affirmed on reconsideration [1996] Alta.L.R.B.R. 65. The Board allowed a vote on employees' revocation application. It rejected the Union's argument that the application was time-barred because the Union had acquired its bargaining rights by successorship less than ten months before. The successorship continued existing bargaining rights; it did not create new ones which would trigger the ten month limitation in the *Code*. The Union's application for reconsideration was also dismissed.

The Board issued several noteworthy decisions on employer successorship applications under section 44. *International Union of Elevator Constructors, Local 30 and Allied Elevator Service Ltd. and C & M Elevator Ltd.* [1995] Alta.L.R.B.R. 301, the first case, involved a unionized elevator maintenance contractor who sold its "maintenance contracts", "chattels" and "stock and trade" to a holding company. In fact, the only asset that changed hands was a list of customers, many with non-assignable maintenance contracts. The holding company transferred the list to its non-union operating company, which also performed elevator maintenance work. The operating company successfully solicited almost all customers on the list as new customers. On application by the Union for a successor employer declaration, the Board dismissed the application. There had been no sale of a "business". The contracts were not by themselves a "going concern". The operating company was not a successor, since it could acquire nothing more than what its holding company had acquired.

Most of the Board's important decisions on successor employers resulted from public sector privatization initiatives. In *NASA v. University of Alberta, Focus Building Services Ltd. et al.* [1995] Alta.L.R.B.R. 396, the University contracted with private

contractors to provide building maintenance, food services, and printing services previously provided by its own employees. The Union applied for declarations that each contractor was a successor employer to the University under s. 44 of the *Code*; and alternatively that each was a common employer with the University under s. 45. The Board followed its decision in *HCEU v. Marriott Management Services* [1993] Alta. L.R.B.R. 452 to find that it has no authority to bind a Public Service Employee Relations Board employer (here a university) to a common employer declaration under s. 45 of the Code.

The Board again addressed a successorship from a PSERA employer to a Labour Relations Code employer in *Alberta Union of Provincial Employees and Crown in Right of Alberta, The Municipal District of Birch Hills #19, et al* [1996] Alta.L.R.B.R. 1. The case involved the establishment of new municipal districts in place of four improvement districts in northern Alberta. The transitional provisions of the Municipal Government Act deemed the existing advisory councils of the improvement districts to be the interim councils of the new municipal districts. The Union applied under PSERA s. 90 for a declaration that the municipal districts were successor employers to the Crown. Several issues arose in this application - whether the municipal districts were for a period employers under PSERA; whether a successorship had occurred; and whether the collective agreement could continue to bind the municipalities despite a change in legislative scheme. The Board first declared the municipal districts to be PSERA employers during the transition. Deeming the advisory councils to be the first councils of the municipalities amounted to an "appointing or designating" their members, making them "employers" under PSERA. It then found that the districts ceased to be PSERA employers after their first municipal elections. The Union's certificates in respect of those districts no longer bound the districts after they became *Labour Relations Code* employers. The AUPE-Crown collective agreement did, however, bind the districts after they became *Code* employers. The Board applied *Ferguson Bus Lines* [1991] Alta.L.R.B.R. 646, and held that the collective agreement contained a voluntary recognition clause that was intended to survive the employers' transfer between jurisdictions. [Note: after the close of the reporting period, this decision was affirmed on reconsideration but for different reasons: *AUPE v. Saddle Hills #20 et al.* [1996] Alta.L.R.B.R. 261. Judicial review applications are pending.]

On the successorship issues, the Board applied the reasoning of *ATU, Loc. 1374 v. Greyhound Lines Canada Ltd. and Ferguson Bus Lines Ltd.* [1991] Alta. L.R.B.R. 646 to a transfer of an undertaking between a *Public Service Employee Relations Act* employer and a *Labour Relations Code* employer. It held that although the Union's certificate under PSERA could not pass over this jurisdictional divide, any bargaining rights conferred by the recognition clause of the parties' collective agreement could bind the successor employer as long as the recognition was not expressly or impliedly limited to employees working under the jurisdiction of the PSERA. The Board dismissed the Union's application, however, because the collective agreement clearly contemplated application to employees working under the bargaining and dispute resolution regime imposed by the PSERA.

CUPE Local Union 3203 and Horizon School District No. 67 et. al. [1995] Alta.L.R.B.R. 439, concerned a regional school division established to replace three existing school authorities. One existing authority was unionized. The Union represented 72% of employees in the expanded employee group. The Board dismissed the joint application to amend the certificate to a region-wide unit. The Board does not alter existing bargaining rights in a successorship unless (a) intermingling of employees has made the existing bargaining structure unworkable, or (b) the parties consent to consolidation of existing bargaining relationships. In this case, there was no evidence of significant intermingling, and the application would have the result not of consolidating existing bargaining rights, but expanding existing bargaining rights without a vote.

On the health care front, a psychiatric hospital contracted out its security functions to Danfield, a private security company. The Union representing the hospital's employees applied for a successor employer declaration or, alternatively, a common employer declaration binding Danfield to its bargaining rights and collective agreement. The Board extensively canvassed labour relations board and arbitration case law on contracting-out. It concluded that except in unusual circumstances, neither successorship nor common employer declarations were available to preserve a union's bargaining rights and collective agreement through a contracting-out. The Board dismissed the successorship declaration on the basis that only work, not a "business" or part of a business, had been transferred by the contracting-out. Bargaining rights do not attach to work alone. The Board also dismissed the Union's

common employer declaration. This case did not fall into any of the limited circumstances where a declaration could issue to bind the principal and the contractor together as a common employer. The hospital was not a common employer just because it could exercise quality control and a contractual power to remove unsuitable employees from its site. See: *Health Care Employees Union of Alberta and Danfield Security Services Ltd. and Alberta Hospital Edmonton* [1996] Alta.L.R.B.R. 27.

Then in *Health Sciences Association of Alberta v. Associated Clinical Laboratories, et al* [1996] Alta.L.R.B.R. 70, two medical laboratory companies, Associated and CDL, amalgamated to form another company, Kasper. Kasper reorganized laboratory services, intermingled the 125 unionized employees of Associated with the 112 non-union employees of CDL, and laid off certain employees. The Union applied for a successor employer declaration. Before hearing, Kasper merged with another employer, Bow Valley. Kasper's workforce was intermingled with Bow Valley's much larger unionized workforce. The parties agreed that ultimately the Bow Valley certificate and collective agreement should apply to the entire intermingled workforce without a vote. They differed whether Kasper employees had been bound by the collective agreement at any time before the merger (which was important to determining employees order of layoff). The Board granted the agreed successorship declaration and held that the previously non-union employees of Kasper had been covered by the Associated collective agreement from the beginning of the Associated-CDL merger. Section 44 of the Code preserves an existing bargaining relationship and continues the collective agreement as if no change had occurred. Therefore the agreement continued to cover all employees newly-hired or transferred into the classifications covered by the agreement's scope clause. The Board, however, has a discretion to order a vote on whether employees in the intermingled workforce wish the union to remain as their bargaining agent. In this case, the unionized and non-union groups were relatively equal and a vote was ordered.

The Board issued two significant decisions on trade union successorships, both affecting the same parties - see: *Alberta Union of School Employees and Alberta Union of School Employees, Locals 100 and 103 and Edmonton Roman Catholic Separate School Division No. 7* [1995] Alta.L.R.B.R. 486 and *Alberta Union of School Employees Locals 100 and 103 and Edmonton Roman Catholic Separate School*

Division No. 7 [1996] Alta.L.R.B.R. 115. In reaction to dissension between maintenance and custodial employees in its bargaining unit, Local 100 purported to transfer its bargaining rights for maintenance employees only to a new chartered local. The locals and parent Union applied to the Board to confirm the successorship. The Board dismissed the application. The Board would not permit the unions to fragment the existing bargaining unit and establish a possibly inappropriate unit through a transfer of jurisdiction. Claims that members in one part of the bargaining unit were being prejudiced in collective bargaining by the other, dominant, part of the unit would be better advanced through an application to reconsider the bargaining unit.

The Union and its locals then sought reconsideration. The reconsideration application was also dismissed because the Board will not exercise its reconsideration power to split existing bargaining units except for compelling reasons. No hard evidence was presented to support the claim that inadequate representation of trades employees' interests in the larger bargaining unit had made the unit inappropriate.

THE COLLECTIVE BARGAINING PROCESS

Last year's report noted a significant increase in bad-faith bargaining complaints over the previous year. It attributed this to government funding reductions and resulting difficult negotiations over rollbacks, layoffs, and contracting-out issues. By the start of the 1995-96 reporting year, however, most parties affected by funding cutbacks had completed their first post-cutbacks bargaining round. The Board accordingly saw a welcome decline in the number of disputes surrounding the collective bargaining process during the reporting year.

The Board issued several noteworthy decisions on the collective bargaining process during the year. One area of dispute was the process by which collective agreements are accepted and ratified. This issue arose in *General Teamsters, Local Union No. 362 v. City-Wide Radiator, Ltd.* [1995] Alta.L.R.B.R. 146. During collective bargaining between the parties, the union withdrew its outstanding demands and accepted the last employer offer. When no employees attended the union meeting

held to ratify the agreement, the local president ratified it in their stead. The employer refused to sign the collective agreement because its counsel had not approved it and because it had not been ratified by its employees. The Board held the collective agreement was valid and ordered the employer to execute it. The employer's last offer had not been made subject to approval by its counsel and was open to acceptance by the union. The union ratification process was an internal matter and could not be used by the employer to attack the validity of the collective agreement.

A similar issue arose in *Royal Alexandra Hospital v. U.N.A. and U.N.A. Local 200* [1995] Alta.L.R.B.R. 355. The union announced a vote of membership on the employer's last proposal, at which time the employer applied for a proposal vote. The union argued the employer's application was improper, as it was seeking to pre-empt the union vote. It also argued the employer's proposal was too vague for a proposal vote and constituted bad faith bargaining, as it asked for a larger wage rollback than its previous offer. The Board found the employer's proposal was sufficiently understandable to the average employee and that its increased wage roll back was consistent with its earlier bargaining position. The employer was seeking the same monetary savings, but over a shorter period due to the time which had passed in bargaining. The employer's application for a proposal vote was deemed valid, as it met the requirements of the Code. It was not a breach of the Code for the employer to select a voting date inconvenient to the union.

In a series of decisions, the Board and the Court of Queen's Bench reviewed the issue of bad faith bargaining and the remedies available in response to it. In *IATSE, Local 302* v. *Famous Players Inc.* [1995] Alta.L.R.B.R. 162, the Board was asked to determine whether a procedurally correct lockout could be suspended due to bad faith bargaining. Following unsuccessful bargaining, the employer locked out its employees in accordance with s. 72 of the Code. The union argued the lockout supported the employer's bad faith bargaining tactic of maintaining an unreasonable position to impasse. The Board found that, although in procedural compliance with the Code, the lockout was part of a pattern of bad faith bargaining. The Board suspended the lockout for 90 days and the locked-out employees were ordered returned to work under the wage terms of the expired collective agreement. On reconsideration (see *Famous Players Inc. v. IATSE, Local 302* [1995] Alta.L.R.B.R.

236), the Board upheld the suspension of the lockout, but varied the interim wage terms to reflect the union's last offer in bargaining.

Both decisions of the Board were quashed on judicial review by the Court of Queen's Bench. In *Famous Players Inc v. Alberta Labour Relations Board and IATSE, Local 302* [1995] Alta.L.R.B.R. 505, the Court found the Board had reached patently unreasonable conclusions, based on erroneous findings, in deciding the employer engaged in bad faith bargaining. In addition, it found the suspension of the lockout and revival of the expired collective agreement was unprecedented, punitive and in excess of jurisdiction. The Board and union each appealed the Court's judgment and the appeals are pending.

The issue of what constitutes bad faith bargaining was also the subject of *County of Ponoka No. 3 v. Alberta Teachers' Association* [1995] Alta.L.R.B.R. 272. The Board determined that a misrepresentation during collective bargaining by an employer representative, although innocently made, constituted bad faith bargaining. The determining factor was not whether the misrepresentation was innocent or intentional, but that the union relied on the misrepresentation in deciding its position.

Proposal Votes

The Board processed four proposal vote applications during the year, down from seven in 1994-95. Three of the applications sought a vote on the employer's last offer. Of the four applications, one was withdrawn, two went to a vote of employees and one was outstanding at the end of the year. In both votes, employees rejected the employer's last proposal. There were no votes on either a mediator's recommendation or a Disputes Inquiry Board recommendation.

STRIKES, LOCKOUTS, AND PICKETING

Strike, lockout and picketing proceedings before the Board rose to 47 complaints, from 32 in 1994-95.

Much of the Board's increased workload in this area came from applications related to illegal strikes and picketing. The Board processed 46 such applications during the year, dismissing four and upholding 36. Six applications were settled before a decision. Only one new illegal lockout application was filed and eight outstanding applications were processed. Four were dismissed and four were withdrawn.

The Board issued a number of decisions of note in this area. In *IATSE, Local 302 v. Famous Players Inc.* [1995] Alta.L.R.B.R. 162, noted above, the Board determined whether a lockout which complied with s. 72 of the Code could also constitute bad faith bargaining. Further, the Board determined whether it could suspend a procedurally correct lockout. The Board found that a lockout used as a bad faith bargaining tactic was not immune from Board remedy just because it had been commenced in procedural compliance with s. 72. It found the employer had maintained an unreasonable position to impasse and its failure to bargain in good faith was extending the lockout. It suspended the lockout for 90 days. The Board's decision to suspend the lockout was upheld on reconsideration at [1995] Alta.L.R.B.R. 162, but both the decision and the reconsideration were quashed on judicial review by the Court of Queen's Bench (see *Famous Players Inc v. Alberta Labour Relations Board and IATSE, Local 302* [1995] Alta.L.R.B.R. 505. The Court's decision is under appeal.

The Board dealt with unlawful picketing and an illegal strike in *Oil Sands Transportation Ltd. v. General Teamsters, Local 362* [1995] Alta.L.R.B.R. 257. The employer supplied bus transportation services from three separate terminals, governed by three separate collective agreements. Striking employees from one terminal picketed at the others, and employees at those terminals refused to cross the picket lines. The Board held the picketing at the two terminals was unlawful, as those terminals were not the "place of employment" of those on strike. As well, the refusal by non-striking employees to cross the picket line was an illegal strike, as they were subject to a valid collective agreement.

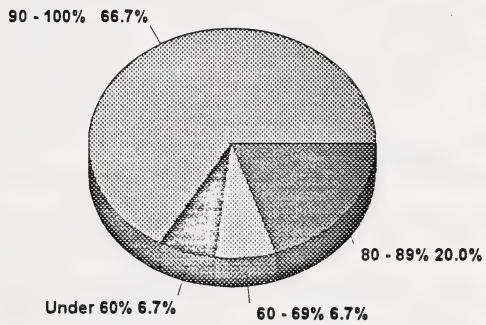
In *U.N.A. v. The Alberta Healthcare Association* [1995] Alta.L.R.B.R. 373, the Board reviewed whether advising employees of possible lay-offs during bargaining amounted to a threat to lockout the employees. The Board found that the threat of lay-offs was only a threat of lockout where it was done to compel the employees to accept terms

of employment. In this matter, the Board found the employer raised the prospect of lay-offs which would be irrevocable and made only to the extent necessary to meet funding cuts. It did not threaten unnecessary, revocable lay-offs, broader in scope than those required to meet budgetary needs.

Strike And Lockout Votes

Under the Code, the Board must supervise all strike and lockout votes. The Board concluded 34 applications for a supervised strike or lockout vote, an increase of 70% over the previous period. This reflects the increased bargaining activity in the province. Twenty of these applications were for strike votes; 14 were for lockout polls. All 34 were granted. The following chart shows the level of support in Board supervised strike votes this period.

Levels Of Support For Strike Action
In Board Supervised Strike Votes



PROHIBITED PRACTICES

Unfair labour practice complaints allege improper conduct by trade unions or employers. The volume of complaints concluded in the reporting year increased slightly from that of the year before, up from 240 to 260.

Raw numbers, however, can be misleading. Often complaints allege breaches of several related sections, yet by the time of hearing, these are refined into one or two key provisions. The practices of complainants vary. Some lay wide-ranging complaints to catch every possible violation. Others focus their complaints more precisely at the outset. This makes it inadvisable to rely too heavily on total application numbers.

In some areas, the ratio of complaints filed to successful complaints is low. However, unfair labour practices rarely occur in a vacuum. They are often woven into the broader processes of labour relations. Many complaints are withdrawn because the parties settle between themselves through collective bargaining or some other mechanism. Intervention by the Board's officers and members helps settle many other cases without a decision having to be made by the Board.

Complaints Against Employers

This year the Board concluded 200 complaints against employers, an increase of 26 from the year before. Thirty-nine were withdrawn, one rejected as incomplete, and 94 settled through Board intervention. This was an increase of 24% in the settlement rate. Of the remainder that were formally adjudicated, the Board dismissed 46 and found in favour of the applicant on 20 matters. A significant amount of the matters related to allegations that the employer had refused to hire or discriminated against an individual for trade union membership or activity, a development also reported in the previous annual report.

About one quarter of the complaints related to employer interference with representation by or administration of a trade union. Four cases deserve particular comment in this regard. In the first, *Staff Nurses Association of Alberta v. University Hospitals Board* [1995] Alta.L.R.B.R. 346, the Union complained that an Employer hospital's project to redesign patient care interfered with its representation of employees. The Employer in the planning phase of the design project had involved employees on committees and solicited direct employee input into planning. At the same time it held parallel meetings with the Union to communicate design issues impacting on collective bargaining. It promised that changes to employment terms resulting from the redesign would be negotiated with the Union. The Board dismissed the complaint. It said that the design project had not yet resulted in specific

contemplated changes to employees' contractual terms, and the Employer had not attempted to negotiate any such changes with employees while bypassing the Union. Essentially, the complaint was premature.

A second case, *Royal Alexandra Hospitals v. United Nurses of Alberta et al.* [1995] Alta.L.R.B.R. 355, involved the Employer's application for a proposal vote at a time when it was aware that the Union was preparing for a membership vote on the same proposal, with a recommendation to reject the proposal. The Board allowed the proposal vote to proceed, with minor amendments to the proposal. The proposal was understandable by the average employee. It had been presented to the Union with sufficient opportunity for the Union to ask questions and for the Employer to determine whether it would be accepted. The application did not interfere with the Union's representation of employees by pre-empting the Union's vote.

In a third case, three hospitals held employee meetings in response to government funding cuts in the middle of the collective agreement term. Over Union objections, they conducted opinion polls whether staff would accept wage rollbacks. Two polls were administered by anonymous questionnaires; the third was a direct telephone poll with answers recorded by employee. In a fourth hospital, management went directly to Union members seeking wage rollbacks. In each case the employer knew that the Union wished to deal with cutback initiatives provincially rather than locally. It also told employees in each case that layoffs would be the inevitable response if concessions were not made. The Board found that all four employers had interfered with the Union's representation of employees. In responding to mid-contract funding cutbacks, the Union was "representing" employees within the meaning of s. 146(1)(a)(ii). The direct solicitation of employee opinions implied to employees that the Union was not representing their wishes, and undermined Union efforts to negotiate acceptable responses provincially. The "employer free speech" defence in s. 146(2)(a) did not apply. The mere solicitation of employee opinions through a questionnaire, without more, is not an expression of employer's views. See: *United Nurses of Alberta v. Alberta Healthcare Association et al.* [1995] Alta.L.R.B.R. 373.

In *Civic Service Union No. 52 v. Edmonton Public Library* [1995] Alta.L.R.B.R. 476, the Union maintained a charitable trust funded by deductions from employee wages. The trust was administered by trustees appointed by the Union. Wage deductions

were paid irrevocably to the trustees, who alone decided to which charitable causes to contribute. The Employer library gave notices to its employees soliciting their support for an approach to the trustees to contribute funds to the library's expansion project. The Union complained that this constituted prohibited interference with the administration of the trade union, or with the union's representation of employees. The Board dismissed the complaint. The charitable trust was an entity separate from the Union. Any attempt to influence trustees was not interference with administration of the Union itself. Nor did the direct approach to employees constitute interference with Union representation of employees as the employer sought no changes to the collective agreement or other terms and conditions of employment.

One case again dealt again with an employer's refusal to hire because of union membership or involvement. See: *International Brotherhood of Electrical Workers Local Union 424 v. TNL Industrial Contractors Ltd. et* al. [1995] Alta.L.R.B.R. 547. The International Brotherhood of Electrical Workers complained on behalf of itself and 33 individual complainants that TNL Industrial Contractors Ltd. had refused to hire the individuals because of their IBEW membership. TNL was at the time a party to a collective agreement with a non-building trades union covering general construction electricians.

Evidence was led that TNL's manager responsible for hiring maintained a large computer list of prospective employees in which he recorded their union status, real or presumed; that he questioned qualified applicants whether they belonged to the IBEW or had applied pursuant to the Union's "SALT" campaign, a program of directing volunteer union members to non-union contractors for the purpose of organizing them; that he had disparaged the Union to certain applicants and expressed the fear that IBEW might be preparing to organize the Employer; that several otherwise qualified tradespersons had not been offered work in response to their applications, while several tradespersons not qualified according to the Employer's professed guidelines had been hired; and that the percentage of IBEW members on this job had dropped significantly from previous jobs the Employer had performed. The Employer in its evidence offered other explanations why Union members were seldom hired to the job. In particular, it suggested that it was a legitimate attempt to keep Union members off "critical path" elements of the project because the "SALT" agreement

signed by participants in the program committed them to leaving their jobs on notice from the Union.

The Board found that the Employer had refused to hire six of the complainants because of their membership in the Union. The Employer's explanations were unconvincing or inconsistent with the evidence. Concerns about placement of IBEW members on critical path jobs were relevant at the assignment stage, not the hiring stage. IBEW members had been assigned to critical path jobs on previous projects. Further, there was no evidence that IBEW intended to rely on its right to call members off their jobs or had done so in the past. There was no plausible explanation offered for the sharp drop in IBEW members hired to TNL jobs. On the contrary, the evidence strongly supported the conclusion that applicants were not hired to prevent organizing and to eliminate the Union's influence from the workplace.

Complaints Against Unions

Complaints against trade unions stayed relatively constant over the previous year. The Board concluded 60 complaints against trade unions, up from 56 in 1994-95. The mix of cases however changed, showing more duty of fair representation complaints, which rose from 37 to 45 over the year before, and fewer complaints under sections 149 and 150. An increase in duty of fair representation cases was not unexpected; economic pressures impacting the workplace tend to result in more employee grievances over terminations, layoffs, and discipline, and more complaints by those employees about their union's handling of their concerns. Complaints against unions under sections 149 and 150 of the Code decreased from 19 to 14 this year. Of these, three were rejected as incomplete, three were withdrawn, five were settled through Board intervention, two were dismissed, and one was granted.

The Duty of Fair Representation

Seventy -six per cent (46 of 60) of complaints against trade unions concluded during the reporting year concerned the duty of fair representation. Of these complaints, two were rejected as incomplete, eight were withdrawn, and twelve were settled through Board intervention. Twenty-two were dismissed and two were granted. The low success rate of these complaints suggests that trade unions generally continue to

perform their representational duties responsibly. Two cases, in particular, contain noteworthy comments.

In the first, *Donna Carol Burton v. Health Sciences Association of Alberta et al.* [1995] Alta.L.R.B.R. 310, the Board dealt with the difficulties Unions face when balancing competing interests of members. The employee complained that the Union had not represented her fairly when it had not advanced her seniority grievance. She had been displaced to the bottom of the seniority list by a manager returning to the bargaining unit. The Union, following its unofficial practice of 20 years and official practice of one year, reinstated the manager's seniority. In response to the grievance and the increasing number of requests, it later rescinded the seniority reinstatement policy. The Union, however, followed legal advice that it should not apply the change in policy retroactively, to the detriment of members who had relied on the prior policy. The Board said the Union had found itself dealing with the competing interests of its members. It had made its decision on the basis of legal advice, without arbitrariness or bad faith, thereby not breaching its duty of fair representation.

The second case, *Wayne Hamilton v. Edmonton Police Association et al.* [1995] Alta.L.R.B.R. 315, demonstrated the critical role the employee plays in advancing his/her own grievance. The Complainant had been on medical leave for stress and was terminated when his benefits were exhausted. He took inconsistent positions with his Employer, his Association and his own counsel over his fitness to return to work and whether he wanted active employment, alternative employment, or a leave of absence. He did not disclose all of these discussions to the Association. The Association did not interview the Complainant personally, but met with his counsel and received a detailed response from the Employer on the subject of the grievance. The Association membership voted not to support the grievance. The Board dismissed the complaint, saying the Complainant had not taken reasonable steps to protect his own interests, notably not making full disclosure to his Association. The Association's investigation was adequate and disclosed all the information that would have been revealed by a personal interview. It had made its decision fairly and had come to a reasoned conclusion.

THE CONSTRUCTION INDUSTRY

The decline in construction industry matters before the Board noted in the past two annual reports not only continued, but accelerated. This reflected the continuing decline in unionized construction activity generally, as the few large construction projects reached conclusion.

Three written decisions on the construction industry that warrant comment were issued in the early part of the reporting year. Two of these cases dealt with "spinoff," or common employer, applications. In *IBEW, Loc. 424 v. Centennial Electric (1983) Ltd. et al.,* [1994] Alta.L.R.B.R. 154, the union applied to the Board to declare two employers under common management to be a common employer. The Board dismissed the application. The words "are carried on" in section 190 requires that employers currently be carrying out associated or related activities. The Board found that one of the companies was exclusively engaged in maintenance work and had not operated in construction for some time. The Board found that electrical construction work and electrical maintenance work are not associated or related activities within the meaning of section 190.

In *Brown and Root v. IBEW Local 424* [1995] Alta.L.R.B.R. 138 the Board dealt with an important argument about the application of s. 51(1)(c), in the context of subcontracted work. The Board held that the employer was entitled to apply for revocation even though it had accepted electrical projects in the last three years but had performed the electrical work by subcontracting rather than with its own forces. *Brown and Root,* also raised the issue of whether the installation of certain temperature switches was within the "pipefitters" or "electricians" bargaining unit, and concluded that on the facts before it the work was pipefitter work.

In *JNJ Instruments Ltd. v. Plumbers Local 488* [1995] Alta.L.R.B.R. 452 the Board was faced with concurrent applications by the Electrical Workers' and Pipefitters' unions to certify the same group of employees. On the facts before it, the Board found that the application of its "prime function test" led to a conclusion that the work in question was pipefitters work. Accordingly, the UA's application ultimately succeeded while the IBEW's was dismissed. The decision raises in a general way the

question of whether the current construction bargaining units adequately take account of the instrument mechanic trade.

In *Painters, Local 177 v. Dynamic Interior Systems Ltd., Cement Masons, Local 372 and Carpenters, Local 1325.* [1995] Alta.L.R.B.R. 435, the Board amended the province-wide bargaining unit sought by Local 177 in order to leave in place pre-existing bargaining units certified to Local 372 and Local 1325. At the time, there were no employees in either of those bargaining units. The Board held that it would be wrong to grant a certificate having the effect of a "raid" without the kind of real representation contest that normally occurs in a raid. In effect, the Board refused to let Local 177 rely on a province-wide geographic jurisdiction when the other two unions enjoyed less than province-wide jurisdiction. Of particular interest is the manner in which the Board amended the bargaining unit description — the description contains an exception for employees covered by the pre-existing certifications.

In *Plumbers, Local 488 v. Christman Mechanical Ltd. et al.*, [1994] Alta.L.R.B.R. 160, the Board dismissed both the union's spinoff application under section 190 and its application for successorship under section 44. Under the latter section, the Board found no evidence of any disposition from one company to the other of work, assets, expertise or employees. On the spinoff application, the Board was satisfied that all the statutory prerequisites for a common employer declaration under section 190 were present in this case. Common control and direction was admitted and the companies engaged in associated or related activities. Contrary to another decision of the Board in *Plumbers Loc. 488 v. Sun West Coordination Services* [1991] Alta.L.R.B.R. 31, the Board would find industrial mechanical construction and commercial mechanical construction to be "associated or related activities." Finally, both businesses were being "carried on" at the time of the application. The evidence did not establish, however, that the two businesses operated so as to avoid the unionized company's bargaining relationship with the union. The Board exercised its residual discretion to refuse a declaration in this case. It found the application was merely an attempt to sweep into a certificate employees who could not otherwise be organized.

In *Neegan Development v. Labourers, Loc. 92* [1994] Alta.L.R.B.R. 326, a plenary panel of the Board on reconsideration examined construction industry sectors. In

making sector determinations the Board looks to the purpose for which the work is being performed. Here the apparent purpose of the work was to clear a right-of-way for construction of a pipeline. The work in question was, therefore, properly pipeline construction work rather than general construction.

JUDICIAL REVIEW - COURT ACTIVITY

The number of new judicial review applications from the Board's decisions increased by seven, up to 17 from ten in 1994-95. The were seven court decisions issued in judicial review. As shown in the following table, four decisions of the Board were upheld by the Court of Queen's Bench, while three were quashed.

Court Challenges to Board Decisions*

YEAR	1993/94	1994/95	1995/96
Outstanding at beginning of period	6	14	10
Applications commenced	13	10	17
Applications withdrawn	2	5	6
Decisions upheld	2	7	4
Decisions reversed or remitted back	1	2	3
Outstanding at end of the period	14	10	14

* This year's statistics are reported by fiscal year. Calendar-year statistics in previous annual reports have been converted. Also, note that appeals to the Court of Appeal are not counted as fresh applications. Instead, the original Board decision is reported as "upheld" or "reversed" according to the result on appeal.

Some of the Court's judicial review decisions were issued orally or by brief memorandum decision, so are not reported. The Board decision at [1994] Alta.L.R.B.R 130 was upheld on judicial review in *IBEW, Local 348 v. Alberta Labour Relations Board and AGT Directory Limited* [1995] Alta. L.R.B.R. 129. As the issue interpreted was the constitutional division of authority over labour relations, the Court reviewed the Board's decision under the correctness standard. The Court found the Board correctly determined the employer was subject to provincial labour relations authority. While the employer supplied services to a related company under federal labour relations authority, its operations were not sufficiently integrated with its core federal undertaking to remove it from provincial jurisdiction.

Two decisions of the Board were quashed on judicial review. In *Famous Players Inc v. Alberta Labour Relations Board and IATSE, Local 302* [1995] Alta. L.R.B.R. 505, the Court quashed the Board's decision in *IATSE, Local 302 v. Famous Players Inc.* [1995] Alta. L.R.B.R. 162 and its reconsideration *Famous Players Inc. v. IATSE, Local 302* [1995] Alta.L.R.B.R 236. It found the Board had reached patently unreasonable conclusions, based on erroneous findings, in deciding the employer engaged in bad faith bargaining. In addition, it found the suspension of the lockout and revival of the expired collective agreement was unprecedented, punitive and in error of jurisdiction. The Court's decision is under appeal by both the Board and the Union.

In *CLAC v. J.V. Driver Installations and LRB et al.* [1996] Alta.L.R.B.R. 134 the Court quashed the Board's decision based upon its conclusion that the Board wrongly denied standing to the Christian Labour Association of Canada, which had applied for certification in respect of the employees of the alleged successor employer. The matter was remitted to the Board for re-hearing.

CASELOAD STATISTICS

The Board's computerized case management system provides individual case monitoring facilities. It also can be used to generate statistics about activity before the Board. In this report the Board has, for the first time, consolidated all activity in one set of statistical reports rather than, as in the past, separating the public sector activity. This report includes the following statistical reports.

Table 1:	Case Resolution by Category
Table 2:	Certification Applications - Concluded
Table 3:	Industry Categories
Table 4:	Revocation Applications - Concluded
Table 5:	Reconsiderations (Review Type) - Concluded
Table 6:	Votes - Concluded
Table 7:	Concluded Files - Others - By Category
Table 8:	Labour Relations Code Comparative Statistical Summary

TERMS USED IN THE STATISTICAL TABLES

The Board tracks each individual case that comes before it. We call this a "matter". A matter generally consists of an application, reference, or complaint brought by one party (or sometimes a group of parties) against another party (or group of parties) under a specific section of the Labour Relations Code, the Public Service Employee Relations Act, or the Police Officers Collective Bargaining Act.

Only certain sections of the legislation give rise to applications, references or complaints. We call these "entry sections". The reports break down the matters received by entry section. In a few cases, applications are so frequently brought under two sections at the same time that we group them together and treat them as one entry section for statistical purposes. Entry sections beginning with the letter "P" involve the Police Officers Collective Bargaining Act those beginning with the letter "e" involve the Public Service Employee Relations Act.

Often a case will involve several matters. One dispute between an employer and a trade union, may, for example, give rise to several different complaints. More general reports allow a look at areas of activity by grouping entry sections into more general "categories".

A case recorded as one matter may affect more than one person. There are "test case" situations where a decision about one person will govern others. We generally record these cases as one matter, not several.

These definitions ensure the validity of statistical comparisons from year to year.

In the case of most reports, our statistics are province-wide. However, parallel reports are available that break down the same statistics into those processed through Calgary or Edmonton.

The various case conclusion reports analyze cases by "resolution type". Some resolution types are self-explanatory. The following comments will explain those that are not.

CERTIFICATION:

Refused Numbers:	means the union did not meet the initial 40 per cent requirement.
Refused Unit:	means the Board found the bargaining unit inappropriate.
Refused - Multiple:	means the application was dismissed in circumstances where the union applied twice, intending only to get one certificate (for example, when it was uncertain which party was the true employer).
Refused - Other:	means the Board rejected the application for other reasons. For example, time bars, lack of trade union status, etc.

REVOCATION:

Refused - Numbers: means the applicant did not have the necessary initial 40 per cent support.

Refused - Other: means the Board rejected the application for other reasons.

RECONSIDERATION (REVIEW TYPE):

Declined: means the Board declined to reconsider the matter.

Varied: means the Board varied its original decision.

Revoked: means the Board revoked its original decision.

Affirmed: means the Board reconsidered the matter, but ended up affirming its original decision.

ALL OTHER CATEGORIES:

Withdrawn: means the application was withdrawn. Parties may do this voluntarily, or as part of a settlement arrived at between themselves.

Informal: means the matter was resolved by the parties accepting a section 10 informal Board member recommendation.

Settled: means the matter was settled because of officer or other Board intervention.

Dismissed: means the Board dismissed a complaint, or ruled for the respondent in an application or reference.

Granted: means the Board upheld a complaint, or ruled for the applicant in an application or reference.

TABLE 1

CASE RESOLUTION BY CATEGORY
PERIOD 04/01/95 - 03/31/96

Description	*Start*	*Received*	*Concluded*	*Outstanding*
Certification	10	190	184	16
Revocation	18	121	136	3
Determinations	51	96	93	54
Appeals	9	19	22	6
Differences	2	11	10	3
Consents	0	6	6	0
BR Modifications	39	321	233	127
Successor Unions	5	13	14	4
Bad Faith Bargaining	5	25	27	3
Conducted Votes	0	4	3	1
Illegal Strike/Pktg	1	46	46	1
Illegal Lockout	8	1	8	1
Supervised S/L Votes	1	27	27	1
Speeding Up Arbs	1	0	1	0
Employer UFLP	85	210	200	95
Trade Union UFLP	4	14	13	5
Employee/TU UFLP	27	62	47	42
Registration Cases	1	0	1	0
Miscellaneous	4	11	8	7
P.O.C.B.A.	1	2	1	2
LRA/Transition	1	0	0	1
Mediation	0	1	1	0
Arbitration	1	2	2	1
TOTAL	**274**	**1182**	**1083**	**373**

Total Outstanding Cases As Of 04/01/94: 274
Received: 1113
Concluded: 1015
Total Outstanding Cases As of 03/31/95: 372

**Totals include matters under the Labour Relations Code & Public Service Employee Relations Act*

TABLE 2
CERTIFICATION APPLICATIONS - CONCLUDED
PERIOD 04/01/95- 03/31/96

	Withdrawn	*Sine Die*	*Refused Numbers*	*Refused Unit*	*Refused Multiple*	*Refused Other*	*Refused Lost Vote*	*Certified*	*Total*
AVERAGE NUMBER OF DAYS TO CONCLUSION:									
Average Days: Overall	130	0	17	14	20	21	23	24	32
Average Days: Edmonton	155	0	17	14	0	23	25	28	38
Average Days: Calgary	23	0	23	0	20	15	16	18	19
INDUSTRY BREAKDOWN:									
Construction	6	0	6	4	0	1	10	19	46
Construction - Related	1	0	7	2	0	2	5	9	26
Education	0	0	0	0	0	1	0	4	5
Food Production	0	0	0	0	0	1	0	1	2
Hosp. and Health Care Services	5	0	0	0	10	8	6	34	63
Manufacturing	1	0	0	1	0	0	6	7	15
Mining	0	0	0	0	0	0	0	0	0
Public Sector	1	0	0	0	0	1	0	1	3
Pulp & Lumber Forest Products	0	0	1	0	0	0	0	0	1
Retail and Wholesale Sector	1	0	6	2	0	0	3	4	16
Transportation and Storage	1	0	0	0	0	2	1	2	6
Miscellaneous	0	0	0	0	0	0	0	1	1
TOTAL CERTIFICATIONS:	**16**	**0**	**20**	**9**	**10**	**16**	**31**	**82**	**184**

TABLE 3
REVOCATION APPLICATIONS - CONCLUDED
PERIOD 04/01/94 - 03/31/95

Section *Description*	*Withdrawn*	*Sine Die*	*Refused Numbers*	*Refused Other*	*Refused Lost Vote*	*Revoked Cert*	*Revoked V.R.*	*Total*
INDUSTRY BREAKDOWN:								
Construction	11	0	1	3	0	79	7	101
Construction - Related	1	0	1	2	1	4	0	9
Education	0	0	0	0	1	1	0	2
Food Production	0	0	0	0	0	1	0	1
Hosp. and Health Care Services	0	0	0	0	0	1	0	1
Manufacturing	0	0	0	0	0	4	0	4
Printing	0	0	0	0	0	1	0	1
Public Sector	0	0	1	0	0	9	0	10
Pulp & Lumber Forest Products	0	0	0	0	0	1	0	1
Retail and Wholesale Sector	1	0	0	0	0	0	1	2
Transportation and Storage	0	0	0	1	0	0	0	1
Miscellaneous	0	0	0	1	1	1	0	3
TOTAL REVOCATIONS:	**13**	**0**	**3**	**7**	**3**	**102**	**8**	**136**

TABLE 4

Appendix - Tables 2 and 3

INDUSTRY CATEGORIES

Construction:	General (Commercial/Institutional/Industrial), Pipeline, Roadbuilding and Heavy Construction, Specialty
Construction-Related:	Quasi-Construction, Service, Maintenance, Repair
Education:	School Boards, Private Schools
Food Production:	Baked Goods, Cereal, Dairy Products, Feed, Fish, Flour, Fruit, Milk, Meat and Poultry, Sugar, Vegetables, Vegetable Oils
Hospital and Health Care Services:	Health Care Units, Hospitals, Medical and other Health Laboratories, Nursing Homes, Victorian Order Nurses
Manufacturing:	Appliances, Beverages - (Brewery, Distillery Soft Drinks, Winery), Chemical, Clay Products, Clothing, Concrete Products, Electrical, Electronic, Fabricated Metal, Furniture, Glass, Machinery, Metal, Paper Goods, Petroleum, Pipe, Plastics, Pulp & Paper, Rubber, Textiles, Transportation Equipment
Mining:	Metals, Non-Metal, Coal, Oil & Gas, Tarsands (overburden)
Printing:	Bindery, Book Publishing, Business Forms, Commercial Printing & Typesetting, Newspaper, Magazines, Periodicals
Public Sector:	Ambulance Authorities, Fire Departments, Improvement Districts, Library Boards, Municipalities, Police, Public Transportation, Recreation Boards
Pulp & Lumber Forest Products:	Logging, Pulp & Paper, Sawmills
Retail and Wholesale Trade:	Automotive Sales & Service, Beer Stores, Department Stores, Drug Stores, Food, Beverage and Accommodation Services, Gas & Service Stations, Grocery Stores, Liquor Stores, Movie Production, Non-Destructive Testing, Parking Lot Service, Security Guard Service, Theatres (including live and movie), Wine Stores
Transportation and Storage:	Warehousing, Distribution, Trucking, Taxies, Buses, Couriers
Utilities:	Electricity, Water, Gas, Telephones
Miscellaneous:	Agricultural/Exhibition Boards, Greenhouses, Group Homes, Labour Organizations, Legal Aid, Mushroom Farms, Non-Profit Organizations, Charity Groups
Crown in Right of Alberta:	(also referred to as the Government of Alberta and covers all 12 Subsidiary Agreements of the Master Collective Agreement)
Crown Agencies:	Alberta Agricultural Development Corporation, Alberta Alcohol & Drug Abuse Commission, Alberta Liquor Control Board, Alberta Oil Sands Technology & Research Authority, Alberta Opportunity Company, Alberta Petroleum Marketing Insurance Corporation, Municipal Affairs - Sales Ltd., Teacher's Retirement Fund Board, Workers' Compensation Board
Advanced Education:	Alberta College of Art, Athabasca University Governing Council, Banff Centre for Continuing Education, Fairview College, Grande Prairie Regional College, Grant MacEwan Communith College, Keyano College, Lakeland College, Lethbridge Community College, Olds College, Medicine Hat College, Mount Royal College, Northern Alberta Institute of Technology (N.A.I.T.), Red Deer College, Southern Alberta Institute of Technology (S.A.I.T.), University of Alberta, University of Calgary, University of Lethbridge

TABLE 5
RECONSIDERATIONS (REVIEW TYPE) - CONCLUDED
PERIOD 04/01/95 - 03/31/96

Section	*Description*	*Incomplete*	*Withdrawn*	*Sine Die*	*Declined*	*Varied*	*Revoked*	*Affirmed*	*Total*
11(4a)	Reconsideration-Appeal	1	4	0	14	1	0	2	22
e11(a)	Reconsideration-Appeal	0	0	0	0	0	0	0	0

TABLE 6
VOTES - CONCLUDED
PERIOD 04/01/95- 03/31/96

Section	*Description*	*Incomplete*	*Withdrawn*	*Sine Die*	*Refused*	*For*	*Against*	*Total*
14(3a)	Vote at parties request	0	1	0	0	0	0	1
14(3b)	Vote at Minister's direction	0	0	0	0	0	0	0
64(3)	Mediator's report vote	0	0	0	0	0	0	0
67(1)	Last offer proposal vote	0	0	0	0	0	2	2
74(1a)	Strike vote	0	4	0	0	12	0	16
74(2a)	Lockout poll	0	0	0	0	11	0	11
74(2b)	Lockout vote	0	0	0	0	0	0	0
105(2)	D.I.B. vote	0	0	0	0	0	0	0
183(1)	Construction - strike votes	0	0	0	0	0	0	0
185(2)	Construction - lockout votes	0	0	0	0	0	0	0
e9(2)	Votes	0	0	0	0	0	0	0
TOTAL		**0**	**5**	**0**	**0**	**23**	**2**	**30**

** Totals include matters under the Labour Relations Code & Public Service Employee Relations Act*

TABLE 7
CONCLUDED FILES - OTHERS - BY CATEGORY
PERIOD 04/01/95- 03/31/96

Category	*Incomplete*	*Withdrawn*	*Sine Die*	*Informal*	*Settled*	*Dismissed*	*Granted*	*Total*
Determinations	9	23	0	0	21	13	27	93
Differences	0	0	0	0	1	0	9	10
Consents	0	2	0	0	0	1	3	6
BR modifications	1	85	0	0	39	18	90	233
Successor unions	0	0	0	0	0	1	13	14
Bad faith bargaining	0	5	0	0	14	4	4	27
Illegal strike/picketing	0	0	0	0	6	4	36	46
Illegal lockout	0	4	0	0	0	4	0	8
Speeding up arbs	0	0	0	0	0	0	1	1
Employer UFLP	1	39	0	0	94	46	20	200
Trade union UFLP	3	3	0	0	4	2	1	13
Employee/TU UFLP	2	8	0	0	14	21	2	47
Registration cases	0	0	0	0	1	0	0	1
Miscellaneous	0	0	0	0	4	0	4	8
P.O.C.B.A.	0	0	0	0	0	1	0	1
LRA/transition	0	0	0	0	0	0	0	0
Mediation	0	0	0	0	0	0	1	1
Arbitration	0	0	0	0	1	0	1	2
TOTAL	**16**	**169**	**0**	**0**	**199**	**115**	**212**	**711**

** Totals include matters under the Labour Relations Code and Public Service Employee Relations Act*

TABLE 8

LABOUR RELATIONS CODE
COMPARATIVE STATISTICAL SUMMARY
for the years ending March 31, 1991-1996

	91-92	92-93	93-94	94-95	95-96
Certification					
Start of reporting period	19	13	14	8	10
Received	208	199	197	148	190
Concluded	253	207	205	146	184
Outstanding at end of period	13	14	8	10	16
Employee Revocation (s. 49(lee))					
Start of reporting period	2	1	2	1	6
Received	38	21	22	32	32
Concluded	39	20	23	27	36
Outstanding at end of period	2	1	2	1	6
Employer Revocation (s. 49(ler))					
Start of reporting period	0	0	1	1	12
Received	9	15	18	47	45
Concluded	9	14	18	36	56
Outstanding at end of period	0	0	1	1	12
Union Revocation (s. 49(tu))					
Start of reporting period	0	0	0	0	0
Received	2	4	1	3	1
Concluded	2	4	1	3	1
Outstanding at end of period	0	0	0	0	0
Revocation without Application (s53(1))					
Start of reporting period	0	0	0	0	0
Received	0	0	6	23	43
Concluded	0	0	6	23	43
Outstanding at end of period	0	0	0	0	0
Determinations					
Start of reporting period	79	34	32	51	51

	91-92	92-93	93-94	94-95	95-96
Received	110	105	56	99	96
Concluded	155	107	61	104	93
Outstanding at end of period	34	32	27	46	54
Reconsideration Appeals					
Start of reporting period	9	4	1	3	9
Received	19	13	14	18	19
Concluded	24	16	13	13	22
Outstanding at end of period	4	1	2	8	6
Differences					
Start of reporting period	2	2	3	11	2
Received	7	7	8	50	11
Concluded	7	6	8	59	10
Outstanding at end of period	2	3	3	2	3
Consents					
Start of reporting period	0	0	1	0	0
Received	7	6	2	3	6
Concluded	7	5	3	3	6
Outstanding at end of period	0	1	0	0	0
BR Modifications					
Start of reporting period	28	15	31	15	39
Received	58	94	60	85	321
Concluded	71	78	77	65	233
Outstanding at end of period	15	31	14	35	127
Successor Trade Unions					
Start of reporting period	1	0	2	3	5
Received	11	10	20	22	13
Concluded	12	8	19	19	14
Outstanding at end of period	0	2	3	6	4
Bad Faith Bargaining					
Start of reporting period	2	5	3	11	5
Received	20	12	31	32	25

	91-92	92-93	93-94	94-95	95-96
Concluded	17	14	29	38	27
Outstanding at end of period	5	3	5	5	3
Conducted Votes					
Start of reporting period	1	0	0	1	0
Received	14	10	14	6	4
Concluded	15	10	13	7	3
Outstanding at end of period	0	0	1	0	1
Illegal Strike/Picketing					
Start of reporting period	0	0	1	1	1
Received	36	13	10	25	46
Concluded	34	14	10	25	46
Outstanding at end of period	2	1	1	1	1
Illegal Lockouts					
Start of reporting period	1	0	0	10	8
Received	1	1	22	3	1
Concluded	2	1	13	5	8
Outstanding at end of period	0	0	9	8	1
Supervised S/L Votes					
Start of reporting period	3	2	0	0	1
Received	90	38	20	35	27
Concluded	91	40	20	34	27
Outstanding at end of period	2	0	0	1	1
Speeding up Arbitrations					
Start of reporting period	1	0	0	0	1
Received	1	0	0	6	0
Concluded	2	0	0	5	1
Outstanding at end of period	0	0	0	1	0
Employer UFLP					
Start of reporting period	15	70	49	81	85
Received	202	211	248	171	210
Concluded	147	232	216	182	200

	91-92	92-93	93-94	94-95	95-96
Outstanding at end of period	70	49	81	70	95
Trade Union UFLP					
Start of reporting period	3	2	1	0	4
Received	45	19	8	22	14
Concluded	46	18	9	19	13
Outstanding at end of period	2	3	0	3	5
Employee/TU UFLP					
Start of reporting period	13	15	22	17	27
Received	44	73	34	47	62
Concluded	42	66	39	37	47
Outstanding at end of period	15	22	17	27	42
Registration Cases					
Start of reporting period	4	3	1	1	1
Received	4	3	1	2	0
Concluded	5	5	1	2	1
Outstanding at end of period	3	1	1	1	0
Miscellaneous Cases					
Start of reporting period	1	3	5	4	4
Received	17	16	15	5	11
Concluded	15	15	16	5	8
Outstanding at end of period	3	4	4	4	7
Police Officers Collective Bargaining Act					
Start of reporting period	1	1	1	1	1
Received	0	0	0	4	2
Concluded	0	1	1	4	1
Outstanding at end of period	1	0	0	1	2
LRA/Transition					
Start of reporting period	11	8	7	1	1
Received	4	5	0	2	0
Concluded	10	7	6	2	0
Outstanding at end of period	5	6	1	1	1

	91-92	92-93	93-94	94-95	95-96
Mediation					
Start of reporting period				0	0
Received				2	1
Concluded				2	1
Outstanding at end of period				0	0
Arbitration					
Start of reporting period				1	1
Received				2	2
Concluded				2	2
Outstanding at end of period				1	1
Start of Reporting Period:	**195**	**178**	**178**	**222**	**274**
Received	**953**	**876**	**802**	**894**	**1182**
Concluded	**973**	**876**	**802**	**867**	**1083**
Outstanding at End of Period	**175**	**178**	**178**	**233**	**388**

*Notes - Certain figures vary slightly from those reported in earlier Annual Reports due to minor changes in posting criteria and error corrections. Due to recent merger of PSERB and LRB, no earlier comparative figures available for some sections. 1994/95 totals include matters under the Labour Relations Code and the Public Service Employee Relations Act.